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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed
as a separate compilation.

LOK SABHA

The following report of the Joint Committee on the Bill to provide for the appointment of a Lokpal to inquire into allegations of corruption against Union Ministers and for matters connected therewith was presented to Lok Sabha on 6 December, 1988:—

COMPOSITION OF THE COMMITTEE

•Shri Somnath Rath

Chairman@

MEMBERS

Lok Sabha

- *2. Shrimati Basavarajeswari
3. Shri T. Basheer
4. Shri H.K.L. Bhagat

@Appointed as Chairman w. e. f. 24-7-1986 vice Shri Brahma Dutt resigned from the Committee.

5. Shri Manoranjan Bhakta
6. Shri P. Chidambram
7. Shri K. P. Singh Deo
8. Shri Sharad Dighe
9. Shri Indrajit Gupta
10. Prof. M. R. Halder
- *11. Shri R. S. Khirhar
12. Shri P. Kolandaivelu
13. Shri Y. S. Mahajan
14. Shri Braja Mohan Mohanty
15. Shri Priya Ranjan Das Munsi
16. Shri D. K. Naikar
17. Shri C. D. Patel
18. Shri Aziz Qureshi
- *19. Shri Ram Swarup Ram
20. Prof. N. G. Ranga
21. Shri C. Madhav Reddy
- *22. Shri S. Jaipal Reddy
23. Shri Ebrahim Sulaiman Salt
24. Shri G. G. Swell
25. Shri K. P. Unnikrishnan
- \$26. Shri Ram Singh Yadav
27. Shri Shyam Lal Yadav
28. Shri Zainul Basher
- £29. Shri Zainal Abedin
30. Shri Asoke Kumar Sen

*Appointed w. e. f. 23.7.1986 vice Shri B.V. Desai died and Sarvashri Brahma Dutt; Eduardo Faleiro and Prof. K.K. Tewari resigned from the Committee.

¶Appointed w. e. f. 26.2.86 vice Prof. Madhu Dandavate resigned from the Committee.

\$Appointed w. e. f. 9.4.87 vice Shri Mool Chand Daga died.

£Appointed w. e. f. 9. 88 vice Shri Ajit Kumar Saha resigned

Rajya Sabha**££31. Shri Lal K. Advani******32. Shri Aladi Aruna alias V. Arunachalam**

33. Shri Anand Sharma

££34. Shri Hanaraj Bhardwaj

35. Shri Darbara Singh

36. Shri Baharul Islam

37. Shri Murasoli Maran

38. Shri N.K.P. Salve

+ 39. Shri P. Shiv Shanker****40. Shri Bir Bhadra Pratap Singh**

41. Shri P. N. Sukul

42. Shri Parvathaneni Upendra

££43. Shri Raoof Vallullah

44. Shri Virendra Verma

££45. VACANT**SECRETARIAT****1. Shri K. C. Rastogi—Joint Secretary.****2. Shri G. S. Bhasin—Deputy Secretary.****3. Shri Swarn Singh—Officer on Special Duty.****LEGISLATIVE COUNSELS****1. Shri S. Ramaiah—Secretary.****2. Shri C. Raman Menon—Additional Secretary.****3. Shri B. K. Samaddar—Deputy Legislative Counsel.**

**Appointed w. e. f. 22-8-86 vice Sarvashri R. Mohanaragam and Sultan Singh retired from Rajya Sabha.

@Appointed w. e. f. 7-5-87 vice Shrimati Pratibha Devi Singh Patil resigned from the Committee.

*Shri P. Shiv Shanker, on his retirement from Rajya Sabha, ceased to be member of the Committee w. e. f. 13-8-87. Re-appointed w. e. f. 27-8-87.

££Sarvashri Lal K. Advani and Hanaraj Bhardwaj on their retirement from Rajya Sabha, ceased to be members of the Committee w. e. f. 2-4-88. Re-appointed w. e. f. 13-5-88.

@@Shri Dipen Ghosh resigned from membership w. e. f. 12-5-88.

REPRESENTATION OF THE DEPARTMENT OF PERSONNEL AND TRAINING

1. Shri Manish Behl—*Secretary.*
2. Shrimati B. Sen—*Joint Secretary.*
3. Shri Hazara Singh—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE ON THE LOKPAL BILL, 1985.

I, the Chairman of the Joint Committee to which, the Bill* to provide for the appointment of a Lokpal to inquire into allegations of corruption against Union Ministers and for matters connected therewith, was referred, having been authorised to submit the Report on their behalf, present their Report.

2. The Bill was introduced in the Lok Sabha on 26 August, 1985. The motion for reference of the Bill to a Joint Committee of both Houses of Parliament was moved in by Lok Sabha by Shri Asoke Kumar Sen, the then Minister of Law and Justice on 28 August, 1985 and was adopted on the same day.

3. The Rajya Sabha concurred in the said motion on 29 August, 1985.

4. The message from Rajya Sabha was published in Lok Sabha Bulletin-Part I on 29 August, 1985.

5. **Sittings held:** The Committee held 21 sittings in all. The first sitting was held on 16 November, 1985. The Committee considered their future programme of work and decided to invite memoranda containing comments/suggestions on the provisions of the Bill by 6 December, 1985 from the State Governments/Union Territory Administrations, Bar Councils/Bar Associations and other organisations, individuals etc. interested in the subject matter of the Bill for their consideration.

Accordingly, a Press Communique inviting memoranda and requests for oral evidence was issued on 16 November, 1985. The Director General, All India Radio and the Director-General, Doordarshan, New Delhi were also requested to broadcast the contents of the Press Communique from all stations of All India Radio/telecast it from all Doordarshan Kendras on three successive days in English and Hindi and regional languages.

6. As per decision taken by the Committee, a circular letter inviting memoranda containing comments/suggestions on the provisions of the Bill or requests for oral evidence was also addressed to the Chief Secretaries of all State Governments/Union Territory Administrations, Bar Councils/Bar Associations and individuals etc.

The Committee further decided to hear oral evidence on the provisions of the Bill from interested parties and authorised the Chairman to select parties/individuals etc. for the purpose, after receipt of memoranda.

As the contents of the Press Communique did not receive wide publicity as anticipated, an advertisement incorporating the contents

*Published in the Gazette of India Extra Ordinary, Part II Section 2 dated 26 August, 1985.

of the Press Communique in brief was also issued on 17 December, 1985 in various newspapers.

7. At their sitting held on 18 December, 1985, the Committee considered requests received from various Associations/Organisations, individuals etc. for extension of time for submission of memoranda on the provisions of the Bill. The Committee felt that keeping in view the importance of the proposed legislative measure and the fact that there was not adequate response, it was necessary to extend the time limit for submission of memoranda. Accordingly, the Committee decided to extend the time for submission of memoranda upto 15 January, 1986.

At this sitting the Committee also decided to hold discussions with the Lokayukta, Chief Ministers, Leaders of Opposition, Bar Councils/Associations etc. at the various State Capitals in order to have their views on the working of the institution of Lokayukta in their States.

8. 34 memoranda containing comments/suggestions on the provisions of the Bill were received by the Committee from various Associations/Organisations, Lokayuktas and individuals etc.

9. With a view to have an idea of the working of the institution of Lokayukta, the Committee visited Lucknow, Patna, Calcutta, Bhubaneswar, Jaipur, Bombay, Trivandrum, Bangalore and Hyderabad (January-February, 1986); Imphal, Kohima, Agartala, Srinagar, Chandigarh, Shimla, Guwahati, Shillong and Gangtok (September-October, 1986); Madras, Pondicherry (January, 1987), Panaji (May, 1987); Port Blair (June, 1987); Aizwal and Itanagar (October, 1987) and held informal discussions on the provisions of the Bill, with the Chief Ministers, Leaders/Members of Opposition in State Legislatures, State Vigilance Commissioners and the representatives of the Bar Councils/Associations etc.

10. At their sittings held at Delhi on 29 June, 15 July, 10 September, 1987, on 12 January, 18 and 19 July, 1988 the Committee took oral evidence on the provisions of the Bill from the interested parties/individuals. The names of the witnesses who tendered oral evidence before the Committee are given in.

11. **Extensions granted by the House:** The Report of the Committee was to be presented to the House by the 15th March, 1986. The Committee were granted 8 extensions for presentation of the Report—first, on 12 March, 1986, upto the last day of the second week of the Monsoon Session 1986 i.e. 25 July, 1986; second, on 23 July, 1986, upto the last day of the Winter Session, 1986 i.e. 9 December, 1986; third, on 4 December, 1986 upto the last day of the Budget Session 1987 i.e. 12 May, 1987; fourth, on 30 April, 1987 upto the last day of the Monsoon Session 1987 i.e. 28 August, 1987; fifth, on 19 August, 1987 upto the last day of the Winter Session 1987 i.e. 15 December, 1987; sixth, on 7 December, 1987 upto the last day of the Budget Session 1988 i.e. 13 May, 1988; seventh, on 10 May, 1988 upto the last day of the Monsoon Session 1988 i.e. 5 September, 1988; eighth, on 5 September

1988 upto the last day of the Winter Session, 1988 i.e. 7 December, 1988.

12. **Inadequacies of the Bill:** At their sitting held on 13 October, 1988 several Members pointed out that the Bill in its present form, would not, if enacted, serve the purpose for which it was intended. Government might consider whether a more comprehensive Bill could be brought in place of the present Bill. The Minister of Parliamentary Affairs (Shri H.K.L. Bhagat) a member of the Committee, stated that he would convey the views of the members to the Government and would apprise the Committee about Government's reactions thereto at the next sitting. The Committee, thereupon postponed clause-by-clause consideration of the Bill.

13. At their sitting held on 27 October, 1988, the Minister of Parliamentary Affairs and Information and Broadcasting (Shri H.K.L. Bhagat) informed the Committee that he had not yet been able to get the reactions of the Government as the concerned Minister (Minister of Personnel—Shri P. Chidambaram) was not in Delhi and he himself being a Minister was not in a position to take a stand on the proposed amendments. He therefore, suggested that the sitting might be postponed and some more time be given to the Government.

14. At their sitting held on 15 November, 1988, the Minister-in-charge of the Bill (Shri P. Chidambaram) stated that the Bill did not make any provision for the redress of grievances arising out of any act or omission of Government or a public functionary or an employee of Government which did not involve any element of corruption. He also stated that it was common experience that many grievances of citizens arose because of inefficiency, tardiness, delay, red-tape, outmoded rules and procedures which did not involve any corrupt motive. It was, therefore, necessary to evolve a system or machinery to redress the grievances of citizens. He further stated that a number of witnesses who gave evidence before the Committee and several Members of the Committee had expressed apprehensions regarding the scope of the Bill. The Committee had been told by a number of witnesses that the Bill was defective because it did not provide for the redress of the grievances of the citizens but only provided for a pre-trial enquiry into the cases of corruption. It had also been pointed out that the bulk of grievances of the citizens would fall outside the scope of Lokpal and in that sense the Lokpal would not serve the purposes which were envisaged by the Administrative Reforms Commission.

15. The Minister-in-charge of the Bill further informed the Committee that Government felt that it would be desirable to re-examine the entire issue relating to the establishment of Lokpal, his powers and jurisdiction. He also informed the Committee that it was proposed to withdraw the present Lokpal Bill and bring forward a more comprehensive legislation to deal with the redress of public grievances. Accordingly, a notice of the motion for withdrawal of the Bill alongwith a statement containing reasons therefor was given by the Minister which stood referred to the Joint Committee under the

first proviso to rule 110 of the Rules of Procedure and Conduct of Business in Lok Sabha.

16. The Committee considered the notice of the motion for withdrawal of the Bill together with the accompanying statement containing reasons therefor at their sitting held on 29 November, 1988.

The Committee also considered and adopted their draft report on the same day.

Recommendation of the Committee:

17. The Committee recommend that the leave to withdraw the Bill be granted.

18. **Record of evidence, memoranda etc. :** The Committee decided that the record of evidence tendered before them might be printed and laid on the Tables of both Houses of Parliament.

The Committee also decided that two sets of memoranda containing comments/suggestions on the provisions of the Bill, received by the Committee might be placed in the Parliament Library, after the report had been presented, for reference by the Members of Parliament.

NEW DELHI;
November 29, 1988.

SOMNATH RATH
Chairman,
Joint Committee on the
Lokpal Bill, 1985.

MINUTE OF DISSENT

In the annals of the Indian Parliament, no Bill has had a more chequered history than the Lokpal Bill.

To give effect to a recommendation made by the Administrative Reforms Commission in 1966, a Bill, called the "Lokpal and Lokayuktas Bill, 1968", was introduced in the Fourth Lok Sabha. The bill was referred to a Joint Committee of both the Houses of Parliament. On the basis of the Joint Committee's report, the Bill was passed by the Lok Sabha in 1969. While this Bill was still pending in the Rajya Sabha, the Lok Sabha was dissolved. Consequently, the Bill lapsed.

In 1971, the Bill, as passed by the previous Lok Sabha, was reintroduced in the Fifth Lok Sabha as the "Lokpal and Lokayuktas Bill, 1971. For six long years it remained in the queue of Bills to be considered". On the dissolution of the Lok Sabha in 1977, this bill also lapsed.

A fresh Bill, called the "Lokpal Bill, 1977", was introduced in the sixth Lok Sabha in 1977. This Bill was referred to a Joint Committee of both the Houses. The Joint Committee considered the Bill and submitted its Report in July 1978. Even while the Bill, as reported by the Committee, was being considered by the Lok Sabha, the Lok Sabha was prorogued, and subsequently dissolved. So, this bill also lapsed. For the third time, the institution of Lokpal eluded the country.

It is note worthy that no such Bill was introduced in the Seventh Lok Sabha. The then Government obviously did not feel committed to it.

But, in 1985, after the installation of a new Government, the Lokpal Bill, 1985 was introduced in the Eighth Lok Sabha with great fanfare as being the second major step, after the anti-Defection Bill, in the fulfilment of the Government's pledge to give the country a clean Government, and sweep the Augean stables of corruption.

Before the Bill was formally introduced, informal discussions were held between the Government and the Opposition about the proposed legislation. The Opposition expressed dissatisfaction with the Bill, as conceived. When the Bill was formally presented, we again expressed our deep disappointment. Of the various versions of the Lokpal Bill presented till then, the 1985 Bill seemed to us the most anaemic in content, and the most restricted in scope. So, when the Government decided to refer the Bill to a Joint Committee of the two Houses, we felt hopeful that the Government would be open to persuasion with regard to the many infirmities of the Bill.

When the Joint Committee commenced functioning, some of us expressed the view that as this matter had already been examined by two Joint Committees earlier, and a mass of evidence of experts etc.

was available, the committee need not go through the elaborate exercise of touring the country to collect evidence. But the Committee, in its wisdom, felt otherwise.

For over three years now, the Committee had undertaken extensive tours, covering the entire country, from Shimla to Trivandrum and from Panjim to Port Blair. As the report indicates, the Committee had visited 23 different States and Union Territories.

The Report was originally to be submitted to the Parliament by March 1986. But, repeated extensions—as many as eight times—were sought for the tenure of the Committee, till one day several of us were constrained to affirm that if any further extension was sought, we would dissociate ourselves from the Committee. The Committee then decided not to seek any further extension, and finalise its deliberations and present its report by the last day of the Winter Session of 1988.

A schedule was drawn up for clause-by-clause consideration of the Bill. Members of the Committee tabled numerous amendments aimed at plugging the loop-holes in the Bill, and making it meaningful and effective. A consolidated list of more than 200 amendments was circulated to members of the Committee.

The sitting of the Committee, slated for clause-by-clause consideration, was postponed twice, and on November 15, 1988, finally, the Minister of State for Home Affairs, Shri P. Chidambaram, informed the Committee that the Government proposed to withdraw the present Lokpal Bill. The draft report of the Committee now seeks to approve of the course of action proposed by the Government.

We strongly disagree with this majority view, which would make the Joint Committee's three-year long labours on extravagant exercise in utter futility. From the very outset we have been of the view that the Bill, as introduced, was inadequate. The Government did not agree with us, and decided to go ahead with it. And now, after three years, it has come to the conclusion that it is not only inadequate, but it is so bad that it cannot even be improved. We hold that setting up of this institution of Lokpal is long overdue and that, therefore, this proposal should not be shelved on any pretext whatsoever. We also hold that the amendments suggested by us, if incorporated, would invest the Bill with necessary teeth which it now lacks.

We agree with the view that the Lokpal's jurisdiction should not be restricted to examination only of those complaints which involve

alleged corruption, but should also cover complaints about abuse of power, gross misconduct, maladministration causing harassment to citizens, etc. At the sitting of the Committee on November 15, 1988, the Minister of State for Home Affairs argued that the amendments give notice of by us, seeking to enlarge the ambit of the Bill, were out of order. In support of this argument he cited Clause 2(b) of the Bill which defined "complaint" as "complaint alleging that a public functionary has, while holding any of the offices mentioned in Clause (e), committed any offence punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947."

The Minister's argument is totally untenable. The scope of a Bill is described by the Statement of Objects and Reasons of the Bill and not by a particular clause of the Bill. The Committee is fully competent to enlarge the definition of "complaint" in this particular clause to make the proposed Lokpal truly an effective institution for redressal of citizens' grievances, irrespective of whether they arise out of corruption or maladministration. As it is, the move to withdraw the Bill is, to use a trite phrase, like deciding to throw the baby out along with the bathwater.

Two other reasons given by the Government for not proceeding with the Lokpal Bill are: firstly, passing of the Prevention of Corruption Act, 1988 and secondly, setting up of a Directorate of Public Grievances headed by an official of the level of Secretary.

Both reasons are unconvincing. The Lokpal Bill, 1985 was introduced even though the Prevention of Corruption Act, 1947 was already there and though there were provisions against corruption in the I.P.C. because the institution of Lokpal is essentially intended to render speedy justice to a citizen and, as the Statement of Objects and Reasons of the Bill says, "save him from pursuing his remedy through the process of courts, which may prove expensive and dilatory." The reference to the so-called Directorate of Grievances is utterly puerile. How can a subordinate department of the Government be a substitute for a Lokpal?

The Lokpal, even with the present deficiencies of the Bill, was expected to function as a watchdog over ministerial probity. During the past two years, corruption in high places has become a subject matter of animated public debate. In the course of our examination of the Lok Ayukta's functioning in the State we found that in several States, the Chief Ministers of those States also came within the purview of the Lok Ayukta. We have been strongly of the view that the office of the Prime Minister also should be similarly brought within the

purview of the Lokpal, as was proposed in the Lokpal Bill, 1977. It is a matter of deep regret that, instead of appreciating public concern about this issue and the validity of our demand, the Government's response is to torpedo the Bill altogether and to move for leave to withdraw it, thus bringing the Joint Committee itself into public ridicule. It only shows the nervousness of the Government in the face of serious charges of corruption against persons in high places and its reluctance to create an institution which might cause embarrassment to it. We cannot be a party to such a crude attempt of the Government to cover up its misdeeds. Hence this note of dissent.

Lal. K. Advani

Parvathaneni Upendra

Aladi Aruna alias V. Arunachalam

K. P. Unnikrishnan

S. Jaipal Reddy

C. Madhav Reddy

Zainal Abedin

Indrajit Gupta

Virendra Verma

NEW DELHI;

November 29, 1988.

Agrahayana 8, 1910 (*Saka*)

BILL No. 166-B OF 1985

THE LOKPAL BILL, 1985

(As considered by the Joint Committee)

A Bill to provide for the appointment of a Lokpal to inquire into allegations of corruption against Union Ministers and for matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

PRELIMINARY

1. (1) This Act may be called the Lokpal Act, 1985.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short
title,
extent
and com-
mence-
ment.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “competent authority” means the Prime Minister;

(b) “complaint” means a complaint alleging that a public functionary has, while holding any of the offices mentioned in clause (e), committed any offence punishable under Chapter IX of the Indian Penal Code or under the Prevention of Corruption Act, 1947;

(c) "Lokpal means a person appointed under section 3 as the Lokpal;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "public functionary" means a person who holds or has held the office of a Minister, Minister of State, Deputy Minister or Parliamentary Secretary, of the Union.

Appoint-
ment of
Lokpal.

3. (1) For the purpose of making inquiries in respect of complaints under this Act, President shall, after consultation with the Chief Justice of India, appoint, by warrant under his seal, a person who is, or has been, or is qualified to be a Judge of the Supreme Court as the Lokpal.

(2) Every person appointed as the Lokpal shall, before entering upon his office, make and subscribe before the President, or some person appointed in that behalf by the President, an oath or affirmation in the form set out in the Schedule.

Lokpal
to be
ineligible
to hold
other
offices.

4. The Lokpal shall not be a Member of Parliament or a Member of the Legislature of any State and shall not hold any office of trust or profit (other than his office as Lokpal), or be connected with any political party, or carry on any business, or practise any profession, and accordingly, before he enters upon his office, a person appointed as the Lokpal shall,—

(a) if he is a Member of Parliament or of the Legislature of any State, resign such membership; or

(b) if he holds any office of trust or profit, resign from such office; or

(c) if he is connected with any political party, sever his connection with it; or

(d) if he is carrying on any business, sever his connection (short of divesting himself of ownership) with the conduct and management of such business; or

(e) if he is practising any profession, cease to practise such profession.

Term of
office and
other
condi-
tions of
service of
Lokpal.

5. (1) A person appointed as the Lokpal shall hold office for a term of five years from the date on which he enters upon his office: Provided that—

(a) the Lokpal may, by writing under this hand addressed to the President, resign his office;

(b) the Lokpal may be removed from his office in the manner provided in section 6.

(2) On ceasing to hold office, the Lokpal shall be ineligible for further employment to any office of profit under the Government of India or the Government of a State.

(3) The salary, allowances and pension payable to, and all other conditions of service of, the Lokpal shall be the same as those of the Chief Justice of India.

Provided that such salary shall be in addition to any pension to which the Lokpal may be entitled in respect of any previous service under the Government of India or under the Government of a State and no deduction shall be made from such salary on the ground of his having received any retirement gratuity, or on the ground that he received the commuted value of a portion of the pension, in respect of his previous service:

Provided further that the allowances and pension payable to, and other conditions of service of the Lokpal shall not be varied to his disadvantage after his appointment.

6. The Lokpal shall not be removed from his office except by an order made by the President on the ground of proved misbehaviour or incapacity after an inquiry made by the Chief Justice of India or, as the case may be, by such other Judge of the Supreme Court as the Chief Justice of India may nominate in this behalf, in which the Lokpal had been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

Removal
of Lokpal.

7. (1) The Lokpal shall for the purpose of assisting him in the discharge of his functions (including verification and inquiries in respect of complaints) under this Act, appoint a Secretary and such other officers and employees as the President may determine, from time to time, in consultation with the Lokpal.

Staff of
Lokpal.

(2) Without prejudice to the provisions of sub-section (1), the Lokpal may, for the purpose of dealing with any complaints or any clauses of complaints, secure—

(i) the services of any officer or employee or investigating agency of the Central Government or a State Government with the concurrence of that Government; or

(ii) the services of any other person or agency.

(3) The terms and conditions of service of the officers and employees referred to in sub-section (1) and of the officers, employees, agencies and persons referred to in sub-section (2) (including such special conditions as may be considered necessary for enabling them to act without fear in the discharge of their functions) shall be such as the President may determine, from time to time, in consultation with the Lokpal.

(4) In the discharge of their functions under this Act, the officers and employees referred to in sub-section (1) and the officers, employees, agencies and persons referred to in sub-section (2) shall be subject to the exclusive administrative control and direction of the Lokpal.

JURISDICTION AND PROCEDURE IN RESPECT OF INQUIRIES

8. (1) Subject to the other provisions of this Act, the Lokpal may inquire into any matter involved in, or arising from, or connected with, any allegation made in a complaint.

Jurisdiction
of
Lokpal.

(2) The Lokpal may inquire into any act or conduct of any person other than a public functionary in so far as he considers it necessary so to do for the purpose of his inquiry into any such allegation;

Provided that the Lokpal shall give such person a reasonable opportunity of being heard and to produce evidence in this defence.

(3) No matter in respect of which a complaint may be made under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952, except on the recommendation, or with the concurrence, of the Lokpal.

60 of 1952.

Matters
not
subject
to juris-
diction of
Lokpal.

9. (1) The Lokpal shall not inquire into any matter concerning any person, if he has any bias in respect of such matter or person and if any dispute arises in this behalf, the President shall, on an application made by the party aggrieved, obtain, in such manner as may be prescribed, the opinion of the Chief Justice of India and decide the dispute in conformity with such opinion.

(2) The Lokpal shall not inquire into any matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952, on his recommendation or with his prior concurrence.

60 of 1952.

(3) The Lokpal shall not inquire into any complaint if the complaint is made after the expiry of five years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Comp-
laints.

10. (1) Any person other than a public servant may make a complaint under this Act to the Lokpal.

Explanation.— For the purpose of this sub-section, public servant means—

(a) any person who is a member of a Defence service or of a civil service of the Union or a State or of an all India service or holds any post connected with Defence or any civil post under the Union or a State;

(b) any person in the service or pay of a local authority, a corporation established by or under a Central, Provincial or State Act or a Government company, as defined in section 617 of the Companies Act, 1956.

11 of 1956.

(2) The complaint shall be in the prescribed form and shall set forth particulars of the offence alleged and shall be accompanied by an affidavit in support of such particulars and a certificate in the prescribed form in respect of the deposit under sub-section (3) or, if the complainant is unable to make the deposit, an application for exemption from the requirement as to such deposit.

(3) The complainant shall deposit in such manner and with such authority or agency as may be prescribed a sum of one thousand rupees to be available for disposal under section 26:

Provided that the Lokpal may, for sufficient cause to be recorded in writing, exempt a complainant from the requirement under this sub-section.

(4) Notwithstanding anything contained in foregoing sub-sections, any letter written to the Lokpal or, as the case may be, the appropriate authority by a person in any jail or other place of custody or in any asylum or other place for insane persons may, if the Lokpal or, as the case

may be, the appropriate authority is satisfied that it is necessary so to do, be treated as a complaint made in accordance with the provisions of this section.

(5) Notwithstanding anything contained in any other enactment, it shall be the duty of a police officer or other person in charge of any jail or other place of custody or of any asylum or other place for insane persons to forward, without opening, any letter addressed to the Lokpal or the appropriate authority by a person imprisoned or detained in such jail, place of custody, asylum or other place, to the Lokpal or the appropriate authority without delay.

Explanation.—“Appropriate authority” means any of the authorities which the Lokpal may, by general or special order, in writing, determine to be appropriate authorities for the purposes of this section.

11. (1) If the Lokpal is satisfied, after considering a complaint and after making such verification as he deems appropriate,—

Preliminary scrutiny of complaints by Lokpal,

(a) that the complaint is not made within the period of five years specified in sub-section (3) of section 9; or

(b) that he cannot make an inquiry in respect of the complaint by reason of the provisions of sub-section (1) or sub-section (2) of section 9 or any other provision of this Act; or

(c) that the complaint is frivolous or vexatious or is not made in good faith; or

(d) that there are no sufficient grounds for inquiring into the complaint, the Lokpal shall dismiss the complaint after recording his reasons therefor and communicate the same to the complainant and to the competent authority

(2) The procedure for verification in respect of a complaint under sub-section (1) shall be such as the Lokpal deems appropriate in the circumstances of the case and in particular the Lokpal may, if he deems it necessary so to do, call for the comments of the public functionary concerned.

12. (1) If, after the consideration and verification under section 11 in respect of a complaint, the Lokpal proposes to conduct any inquiry, he—

Procedure in respect of inquiries,

(a) shall forthwith forward a copy of the complaint to the competent authority;

(b) may make such orders as to the safe custody of documents relevant to the inquiry as he deems fit;

(c) shall, at such time as he considers appropriate, forward a copy of the complaint to the public functionary concerned and afford him an opportunity to represent his case.

(2) Every such inquiry shall be conducted in *camera*.

(3) Save as aforesaid, the procedure of conducting any such inquiry shall be such as the Lokpal considers appropriate in the circumstance of the case.

Power of Lokpal to issue, in certain circumstances, directions for deferring or suspending investigation into an offence.

13. (1) Where the Lokpal is satisfied—

(a) that investigation by any police officer under the Code of Criminal Procedure, 1973, into any offence in respect of which a complaint is made or into any matters connected therewith may prejudicially affect the conduct of inquiry under this Act with respect to such complaint; and

2 of 1974.

(b) that having regard to all the circumstances of the case it would be proper to defer such investigation pending the completion of such inquiry; he may by order in writing and for reasons to be recorded therein, direct that till the completion of such inquiry or for such shorter period as may be specified in the order, any such investigation shall be deferred or, as the case may be, shall be suspended.

Provided that no such direction shall apply with respect to any investigation required to be made in pursuance of an order of any court.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 in computing, for the purposes of Chapter XXXVI of that Code, the period of limitation of taking cognizance of any offence, being an offence the investigation in respect of which has been deferred or suspended by reason of an order under sub-section (1), the date on which such order was made, the period during which the investigation remained deferred or, as the case may be, suspended by reason of the order and the date on which the order ceased to have effect, shall be excluded.

2 of 1974.

Evidence.

14. (1) Subject to the provisions of this section, for the purpose of any inquiry (including the verification under section 11), the Lokpal—

(a) may require any public servant or any other person, who, in his opinion is able to furnish information or produce documents relevant to such inquiry to furnish any such information or produce any such document;

(b) shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters namely:—

5 of 1908.

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents; and

(vi) such other matters as may be prescribed.

(2) A proceeding before the Lokpal shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code,

45 of 1960.

(3) Subject to the provisions of sub-section (4),—

(a) no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to Government or any public servant, whether imposed by any enactment or by any provision of law whatever shall apply to the disclosure of information for the purposes of any inquiry (including the verification under section 11) under this Act; and

(b) the Government or any public servant shall not be entitled, in relation to any such verification or inquiry, to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any enactment or by any provision of law whatever in legal proceedings.

(4) No person shall be required or authorised by virtue of this Act to furnish any such information or answer any such question or produce so much of any document—

(a) as might prejudice the security, or defence, or international relations, of India (including India's relations with the Government of any other country or with any international organisation), or the investigation or detection of crime; or

(b) as might involve the disclosure of proceedings of the Cabinet of the Union Government or of any Committee of such Cabinet,

and for the purpose of this sub-section, a certificate issued by a Secretary to the Government of India certifying that any information, answer, or portion of a document, is of the nature specified in clause (a) or clause (b) shall be binding and conclusive:

Provided that the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued under this sub-section to the effect that it is of the nature specified in clause (a) to be disclosed to him in private for scrutiny and if on such scrutiny the Lokpal is satisfied that such certificate ought not to have been issued, he shall declare the certificate to be of no effect.

45 of 1860. *Explanation.*—For the purposes of this section “public servant” shall have the same meaning as in section 21 of the Indian Penal Code.

15. (1) If the Lokpal has reason to believe that any documents which, in his opinion, will be useful for, or relevant to, any inquiry under this Act, are secreted in any place, he may authorise any officer subordinate to him, or any officer of an investigating agency referred to in sub-section (2) of section 7, to search for and to seize such documents.

Search
and
Seizure.

(2) If the Lokpal is satisfied that any document seized under sub-section (1) would be evidence for the purpose of any inquiry under this Act and that it would be necessary to retain the document in his custody, he may so retain the said document till the completion of such inquiry:

Provided that where such document is seized before the commencement of such inquiry, the Lokpal shall return the document before the expiration of a period of one year from the date on which it is seized unless such inquiry has been commenced before such expiration.

Explanation.— For the purposes of this sub-section, an inquiry in respect of a complaint—

(a) shall be deemed to have commenced on the date on which the Lokpal forwards a copy of the complaint to the competent authority under clause (a) of sub-section (1) of section 12;

(b) shall be deemed to have been completed on the date on which the Lokpal closes the case under clause (a) of sub-section (1) of section 16 or where the Lokpal makes a report to the competent authority under clause (b) of that sub-section, on the expiry of the period mentioned in sub-section (3) of that section.

(3) The provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of section 165 of the said Code shall have effect as if, for the word “Magistrate”, wherever it occurs, the words “Lokpal or any officer authorised by him” were substituted.

Reports.

16. (1) If, after inquiry in respect of a complaint, the Lokpal is satisfied—

(a) that no allegation made in the complaint has been substantiated either wholly or partly, he shall close the case and intimate the complainant, the public functionary and the competent authority accordingly;

(b) that all or any of the allegations made in the complaint have or has been substantiated either wholly or partly, he shall be report in writing, communicate his findings and recommendations to the competent authority and intimate the complainant and the public functionary about his having made the report.

(2) The competent authority shall examine the report forwarded to it under clause (b) of sub-section (1) and communicate to the Lokpal, within three months of the date of receipt of the report, the action taken or proposed to be taken on the basis of the report.

(3) The Lokpal shall present annually to the President a consolidated report on the administration of this Act and the President shall, as soon as may be after, and in any case not later than ninety days from the receipt of such report, cause the same, together with an explanatory memorandum, to be laid before each House of Parliament.

Explanation.—In computing the period of ninety days referred to in this sub-section, any period during which Parliament or, as the case may be, either House of Parliament, is not in session, shall be excluded.

MISCELLANEOUS

17. The salaries, allowances and pensions payable to, or in respect of, the Lokpal shall be expenditure charged on the Consolidated Fund of India.

Expenditure on Lokpal to be charged on the Consolidated Fund of India.

18. (1) Any information obtained by the Lokpal, or by any officer, employee, agency or person referred to in section 7, in the course of, or for the purposes of, any verification or inquiry under this Act, and any evidence recorded or collected in connection therewith shall be treated as confidential and, notwithstanding anything contained in the Indian Evidence Act, 1872, no court shall be entitled to compel the Lokpal, or any such officer, employee, agency or person, to give evidence relating to such information or to produce the evidence so recorded or collected.

Secrecy of information.

1 of 1872.

(2) Nothing in sub-section (1) shall apply to the disclosure of the information or evidence referred to therein—

(a) for the purposes of this Act or for the purposes of any action or proceedings to be taken on any report under section 16; or

(b) for the purposes of any proceedings, for an offence of giving or fabricating false evidence, under the Indian Penal Code; or

(c) for such other purposes as may be prescribed.

45 of 1860.

19. (1) Whoever intentionally offers any insult, or causes any interruption, to the Lokpal while the Lokpal is making any verification or conducting any inquiry under this Act, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Intentional insult or interruption to, or bringing into disrepute, Lokpal.

(2) Whoever, by words spoken or, intended to be read, makes or publishes any statement, or does any other act, which is calculated to bring the Lokpal into disrepute, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of sub-section (2) of section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (2) of the said section 199, subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor except with the previous sanction of the Lokpal.

1 of 1974.

20. (1) If at any stage of a proceeding before the Lokpal, it appears to the Lokpal that any person appearing in such proceeding had knowingly or wilfully given false evidence or had fabricated false evidence, with the intention that such evidence should be used in such proceeding, the Lokpal, may, if satisfied that it is necessary and expedient in the interests of justice that the person should be tried summarily for giving or fabricating, as the case may be, false evidence, take cognizance of the offence and may, after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973, and sentence him to imprisonment for a term which may extend to three months, or to fine which may extend to five hundred rupees or to both.

Power of Lokpal to try certain offences summarily.

2 of 1974.

45 of 1860.

(2) When any such offence as is described in section 175, section 178, section 179 or section 180 of the Indian Penal Code is committed in the view or presence of the Lokpal, the Lokpal may cause the offender to be detained in custody and may, at any time on the same day, take

cognizance of the offence and, after giving the offender a reasonable opportunity of showing cause why he should not be punished under this section, try such offender summarily so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to simple imprisonment for a term which may extend to one month or to fine which may extend to five hundred rupees or to both.

2 of 1974.

(3) In every case tried under this section the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the finding and the sentence.

(4) Any person convicted on a trial held under this section may appeal to the High Court and the provisions of Chapter XXIX of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to appeals under this section and the High Court may alter or reverse the finding, or reduce or reverse the sentence appealed against.

2 of 1974.

Examination.—For the purposes of this sub-section "High Court" means the High Court within the jurisdiction of which the person convicted ordinarily resides or carries on business or personally works for gain or the High Court within whose jurisdiction the order of conviction has been passed.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

2 of 1974.

Disclo-
sure of
informa-
tion and
publica-
tion of
false infor-
mation in
respect of
com-
plaint and
proce-
dings
under
this Act.

21. (1) If any person prints or publishes any information with respect to any complaint under this Act (including the identity of the person making the complaint, the public functionary against whom the complaint has been made and the particulars contained in the complaint) or with respect to any proceeding, act or thing taken or done or purported to have been taken or done under this Act in relation to such complaint—

(a) where the Lokpal dismisses such complaint under section 11, at any time before such dismissal; or

(b) where the Lokpal closes the case with respect to such complaint under clause (a) of sub-section (1) of section 16, at any time before such closure; or

(c) where the Lokpal forwards to the competent authority a report of his findings and recommendations with respect to such complaint under clause (b) of sub-section (1) of section 16, at any time before the expiry of three months from the date of receipt of the report by the competent authority,

such person shall be guilty of an offence under this sub-section.

(2) If any person prints or publishes any information alleging or suggesting that a complaint has been made under this Act against any public functionary and such information is false, such person shall be guilty of an offence under this sub-section.

(3) When any offence under sub-section (1) or sub-section (2) is committed, the Lokpal may take cognizance of the offence and, after giving the offender reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily

2 of 1974.

so far as may be in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term which may extend to six months or to fine which may extend to ten thousand rupees or to both.

(4) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(5) Any person convicted in a trial under this section may with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

2 of 1974.

(6) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

22. (1) Every person who makes any complaint which is held by the Lokpal to be false shall be punishable as provided in sub-section (2).

Action in
case of
false
com-
plaints.

2 of 1974.

(2) When any offence under sub-section (1) is committed, the Lokpal may take cognizance of the offence and after giving the offender a reasonable opportunity of showing cause why he should not be punished for such offence, try such offender summarily, so far as may be, in accordance with the procedure prescribed for summary trials under the Code of Criminal Procedure, 1973 and sentence him to imprisonment for a term, which shall not be less than one year but which may extend to three years and also to fine which may extend to fifty thousand rupees and may also award, out of the amount of fine, to the public functionary against whom such false complaint has been made, such amount of compensation as the Lokpal thinks fit.

(3) In every case tried under this section, the Lokpal shall record the facts constituting the offence with the statement (if any) made by the offender as well as the findings and the sentence.

(4) Any person convicted on a trial under this section may, with the leave of the Supreme Court, prefer an appeal to the Supreme Court within thirty days of such conviction or within such further period as the Supreme Court may for sufficient cause allow and, save as aforesaid, no appeal or revision shall lie in any court against such conviction.

2 of 1974.

(5) The provisions of this section shall have effect notwithstanding anything contained in the Code of Criminal Procedure, 1973.

23. Subject to the other provisions of this Act and subject to the modification that for purpose of transfer of any case under section 21 or 22, the provisions of section 406 of the Code of Criminal Procedure, 1973, shall alone apply, the provisions of the said Code shall apply to proceedings before a Lokpal under sections 20, 21 and 22 and for the purposes of the said provisions of that Code and the said proceedings the Lokpal shall be deemed to be a Court of Session and shall have all the powers of a Court of Session.

Applica-
tion of
Act
2 of 1974.

24. Notwithstanding anything contained in any other law for the time being in force, where on an inquiry in respect of a complaint against a

Bar of
prosecu-

tion on
allega-
tions not
proved
or not
subs-
tantiated.

public functionary the Lokpal or the competent authority has held that any allegations made in the complaint have not been proved or substantiated, no prosecution shall lie on any complaint, report information or otherwise and no court shall take cognizance of any offence on the basis of the same or substantially the same allegations as in the complaint.

Confer-
ment of
additional
functions
on Lokpal.

25. (1) The President may, by order in writing and subject to such conditions or limitations as may be specified in the order, require the Lokpal to inquire into any allegation (being an allegation in respect of which a complaint may be made) specified in the order in respect of a public functionary and, notwithstanding anything contained in this Act, the Lokpal shall comply with such order.

(2) When the Lokpal is to make any inquiry under sub-section (1), the Lokpal shall exercise the same powers and discharge the same functions as he would in the case of any inquiry made on a complaint under this Act and the provisions of this Act (except section 22) shall apply accordingly.

Disposal
of deposit.

26. The sum deposited by a complainant under section 10 shall,—

(a) In a case where the complaint is dismissed under clause (c) of sub-section (1) of section 11, stand forfeited to the Central Government;

(b) if the Lokpal, for reasons to be recorded in writing, so directs, be utilised for compensating the public functionary complained against; and

(c) in any other case, be refunded to the complainant .

Compensation or
reward
or both
payable in
certain
cases to
complainant.

27. If the Lokpal is satisfied—

(a) that all or any of the allegations made in a complaint have or has been substantiated either wholly or partly; and

(b) that having regard to the expenses incurred by the complainant in relation to the proceedings in respect of such complaint and all other relevant circumstances of the case the complainant deserves to be compensated or rewarded.

the Lokpal shall determine the amount which shall be paid to complainant by way of such compensation or reward and the Central Government shall pay the amount or amounts so determined to the complainant.

Protection.

28. (1) No suit, prosecution, or other legal proceedings, shall lie against the Lokpal, or against any officer, employee, agency or person referred to in section 7, in respect of anything which is in good faith done, or intended to be done, under this Act.

(2) Save as otherwise provided in this Act, no proceedings or decision of the Lokpal shall be liable to be challenged, reviewed, quashed or called in question, in any court.

Power to
delegate.

29. The Lokpal may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any powers conferred or duties imposed on him by or under this Act [except the powers under the proviso to sub-section (3) of section

10, the power to dismiss a complaint under sub-section (1) of section 11, the powers to close cases and make reports under section 16 and the powers under sections 20, 21 and 22 may also be exercised or discharged by such of the officers, employees or agencies referred to in sub-section (1) or sub-section (2) of section 7, as may be specified in the order.

30. (1) The President may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to
make
rules.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for—

(a) the form in which complaints may be made under section 10 and the fees, if any, which may be charged in respect thereof;

(b) the manner in which and the authorities or agencies with whom deposits shall be made under sub-section (3) of section 10 and the form in which certificates shall be furnished in respect of such deposits under sub-section (2) of section 10;

(c) the matters referred to in sub-section (vi) of clause (b) of sub-section (1) of section 14;

(d) any other matter which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

31. For the removal of doubts, it is hereby declared that nothing in this Act shall operate to confer or enable the conferring or any jurisdiction on the Lokpal to make any inquiry into any allegation against or any act or conduct of,—

Removal of
doubts.

(a) the President, the Vice-President, the Prime Minister or the Speaker of the Lok Sabha;

(b) the Chief Justice or any other Judge of the Supreme Court of India;

(c) the Comptroller and Auditor-General of India, the Chief Election Commissioner of India or the Chairman or any other Member of the Union Public Service Commission.

32. Nothing contained in this Act shall be construed as affecting the constitution of, or the continuance of functioning or exercise of powers by, any Commission of Inquiry appointed under the Commissions of Inquiry Act, 1952, before the commencement of this Act and no complaint shall be made under this Act in respect of any matter referred for inquiry to such Commission before such commencement.

Savings.

Conse-
quential
amend-
ment of
Act
60 of 1952.

33. In section 3 of the Commissions of inquiry Act, 1952, in sub-section (1), for the words "The appropriate Government may", the words, brackets and figures "Subject to the provisions of sub-section (3) of section 8 of the Lokpal Act, 1935, the appropriate Government may" shall be substituted.

THE SCHEDULE

[See section 3(2)]

I, _____, having been appointed Lokpal, do swear in the name of God _____ that I will bear true faith and allegiance to solemnly affirm the Constitution of India as by law established, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will.

SUBHASH C. KASHYAP,
Secretary-General.